

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	
	)	
Jurgen Loffler et al.	)	Group Art Unit: 1655
	)	
Serial No.: 09/284,155	)	Examiner: Beverly M. Flanagan
	)	
Filed: July 14, 1999	)	
	)	
For: METHOD FOR DETECTING	)	
RESISTANT FUNGAL CELLS	)	
IN CLINICAL MATERIAL	)	

Assistant Commissioner for Patents  
Box DAC  
Washington, D.C. 20231

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**MAR 08 2001**  
**OFFICE OF PETITIONS**

**RESPONSE TO DECISION ON PETITION**

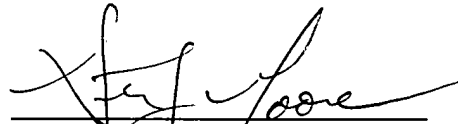
In response to the decision on the petition under 37 CFR 1.137(b) filed January 17, 2001 to revive the above-identified application, Applicants hereby submit the following:

1. A copy of the Reply required under 37 C.F.R. 1.137(b) which was filed concurrently with the Petition in this case on January 17, 2001.
  - a) Copy of Express Mail Receipt stamped by the Post Office on January 17, 2001;
  - b) Transmittal Letter setting forth all documents submitted January 17, 2001;
  - c) Petition for Revival (unintentional);
  - d) Utility Patent Application Transmittal (continuation), which was inadvertently sent to BOX PATENT APPLICATION instead of BOX DAC; and
  - e) Copies of checks in connection with this matter sent to the U.S. Patent and Trademark Office.
2. Copies of original PCT priority documents mailed with this application.

March 7, 2001

Applicants respectfully request reconsideration of the Decision on Petition mailed February 23, 2001 by the Office of Petitions, a copy of which is also attached hereto.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Steven J. Moore", is written over a horizontal line.

Steven J. Moore  
Reg. No. 35,959  
Attorney for Applicants  
CUMMINGS & LOCKWOOD  
Granite Square  
700 State Street, P.O. Box 1960  
New Haven, CT 06509-1960

Date: March 7, 2001



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Document No. 13

Steven J. Moore  
Cummings & Lockwood  
Granite Square, 700 State Street  
P.O. Box 1960  
New Haven, Connecticut 06509-1960

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FEB 23 2001

**OFFICE OF PETITIONS  
A/C PATENTS**

DECISION ON PETITION

In re Application of  
Jurgen Loffler et al.  
Application No. 09/284,155  
Filed: July 14, 1999  
Attorney Docket No. WWH-188

*Box DAC* → *Everything was filed*

This is a decision on the petition under 37 CFR 1.137(b) filed January 17, 2001, to revive the above-mentioned application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned on August 2, 2000 for failure to timely file an appropriate response to the final Office action mailed May 1, 2000 which set a shortened statutory period for reply of three (3) months. No extension of time for reply available to petitioner under 37 CFR 1.136(a) was obtained. A Notice of Abandonment was mailed on January 31, 2001 which was after the instant petition was filed.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of item (1) above.

Although petitioner checked the appropriate box on the instant petition indicating that a proposed reply was enclosed with the petition, the petition does not indicate the nature of the reply, nor does the application file contain any record of a proposed reply being filed with the petition. Accordingly, this application cannot be revived until an appropriate reply to the final Office action mailed, May 1, 2000, is filed.


Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents  
Box DAC  
Washington, D.C. 20231

By facsimile: (703) 308-6916  
Attn: Office of Petitions

By hand: Office of Petitions  
2201 South Clark Place  
Crystal Plaza 4, Suite 3C23  
Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to Kenya A. McLaughlin, Petitions Attorney, at (703) 305-0010.

  
Beverly M. Flanagan  
Supervisory Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

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Assistant Commissioner for Patents, Washington, D.C. 20231

**PATENT**

Sir: Kindly acknowledge receipt of the following papers by stamping and returning this card.

Cont. of Parent  
Serial No: 09/300,249 Filing Date: 7/14/99 Atty: SJM Client No: WWH-188.1  
Title: METHOD FOR DETECTING RESISTANT FUNGAL CELLS Revival of Abandoned  
IN CLINICAL MATERIAL Due Date: application

- ☐ A patent application including pages of abstract, specification and claims
- ☒ Continuation (Divisional) (CIP) (Provisional) (Design) Application
- ☐ \_\_\_\_\_ sheets of drawings ☐ formal ☐ informal
- ☒ Declaration of Power of Attorney ☐ executed ☐ unexecuted (copy)
- ☐ Assignment
- ☐ Recordation Form Cover Sheet
- ☒ Application Transmittal Letter duplicate
- ☒ Preliminary Amendment
- ☐ Amendment
- ☐ Amendment Fee Transmittal Letter
- ☐ Petition and Fee for Extension of Time
- ☐ Information Disclosure Statement
- ☐ PTO Form 1449 and Copies of Cited References
- ☐ Issue Fee Transmittal
- ☐ Submission of Formal Drawings
- ☐ Maintenance Fee
- ☐ Certificate Under 37 CFR § 373 (b)

- ☐ Verified Statement Claiming Small Entity
- ☐ Revocation And Substitute Power of Attorney
- ☐ Associate Power of Attorney
- ☐ PCT Request
- ☐ PCT Demand
- ☐ PCT Power of Attorney
- ☐ PCT Transmittal Letter to the U.S. Designated Election Office (DO/EO/US)
- Petition for Revival of Appln.
- ☒ Abandoned Unintentionally
- ☒ Check for \$1,240 (Petition Fee)
- ☒ Copy of parent application with all attachments
- ☐ \_\_\_\_\_
- ☒ Check in the amount of \$1,510 (Filing Fee)
- ☐ Certificate of Mailing
- ☒ Certificate of Express Mailing
- No. EL664115603US
- ☒ Return postcard
- Date 1/17/01

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MAR 08 2001

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Trademarks

**CUMMINGS & LOCKWOOD**

EXPENSE / DISBURSEMENT ACCOUNT

Filing Fee - Patent Application  
Express Mail Label No. EL664115603US  
Docket: WWH-188.1

FLEET

01672 ONE ATLANTIC ST. OFFICE  
STAMFORD, CONNECTICUT 06901  
51-57-119

120046

PAY  
TO THE  
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OF:

THE SUM \*\*\*1,510 DOLLARS AND 00 CENTS

Commissioner of Patents and  
Trademarks

DATE

01/16/2001

AMOUNT

\$1,510.00\*

2 MANUAL SIG'S REQ. CHECKS OVER \$10,000.00  
1 MANUAL SIG. OVER \$1000.00

⑈ 120046 ⑈ ⑆ 011900571 ⑆ 00003 09184 ⑈

**CUMMINGS & LOCKWOOD**

EXPENSE / DISBURSEMENT ACCOUNT

Express Mail Label No. EL664115603US  
Petition for Revival of an Application  
Abandoned Unintentionally Under 37 CFR 1.137(b)  
Serial No. 09/284,155  
Docket: 931667.0034 (WWH-188)

FLEET

01672 ONE ATLANTIC ST. OFFICE  
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51-57-119

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PAY  
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DATE

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AMOUNT

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**CUMMINGS & LOCKWOOD**

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